

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

PERRY K. SCOTT

Petitioner,

v.

Case No. 06-C-973

FLOYD MITCHELL,

Respondent.

ORDER DENYING WITHOUT PREJUDICE PERRY K. SCOTT'S
PETITION FOR WRIT OF HABEAS CORPUS AND DISMISSING CASE

On September 18, 2006, this court ordered Perry K. Scott to file an amended petition for writ of habeas corpus on the standard form enclosed with the order. The original petition did not identify by date or docket number the conviction that he was challenging. Consequently, the court warned that failure to file the amended petition in accordance with the local rules would result in dismissal of the action. To date, Scott has not filed the amended petition. Rather, on the deadline for filing an amended petition, Scott's father filed a request for extension of 180 days and provided several details regarding the underlying conviction.

Significantly, Scott's father represents that Scott was sentenced on April 3, 2006, and that on October 6, 2006, counsel informed Scott that there was no basis to appeal. Scott's federal habeas petition was filed on September 15, 2006.

In addition, Scott's father attached several documents to his request for extension of time, which indicate that Scott was convicted on two counts of armed robbery/concealing identity on January 10, 2002. It appears that Scott was charged with two

new felony offenses in Milwaukee County Case No. 2005CF2194 on April 19, 2005. After he was charged but prior to his conviction in the 2005 case, Scott sought state habeas relief. The state court petition was denied because Scott was on a parole hold, and he could still challenge the 2002 conviction by filing a Wis. Stat. § 974.06 motion. Because Scott has failed to comply with the order of this court by filing an amended petition, and the documents submitted on his behalf indicate that he has not pursued his remedies in the state court,

IT IS ORDERED that Perry K. Scott's petition for writ of habeas corpus is denied without prejudice.

IT IS FURTHER ORDERED that this case is dismissed.

Dated at Milwaukee, Wisconsin, this 8th day of November, 2006.

BY THE COURT

s/ C. N. CLEVERT, JR.
C. N. CLEVERT, JR.
U. S. DISTRICT JUDGE